



Public Service Commission

State of North Dakota

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RE: CC Docket No. 95-115

COMMENTS BY THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

The North Dakota Public Service Commission submits the following comments concerning the proposed rulemaking regarding the proposals to increase subscribership and usage of the public switched network.

The North Dakota Public Service Commission commends the Federal Communications Commission on its efforts to increase subscribership to the telephone network, its recognition the lack of service among certain demographic groups, and its endeavor to find solutions to the problems. However, we oppose this rulemaking process because we believe subscribership to the local loop can better be addressed by state regulatory commissions and is primarily a matter of state jurisdiction.

North Dakota is one of eleven states identified in this Notice of Proposed Rulemaking that has implemented rules to prohibit the disconnection of local service for non-payment of long distance services. The disconnection rules that were implemented by the North Dakota Public Service Commission became effective January 1, 1993. The rules apply to all local exchange carriers providing service in North Dakota. We have attached a copy of our rules to these comments.

The North Dakota Public Service Commission's experience with the disconnection rules is positive. Although some local exchange carriers resisted the concept initially, all companies have complied without apparent difficulty. North Dakota has one of the highest telephone subscribership rates in the United States. We have been informed that North Dakota communities with at least fifty percent Native American population have a subscribership of approximately sixty-eight percent as opposed to one-half nationally.

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The North Dakota Public Service Commission believes that programs and initiatives can and should be implemented to achieve higher rates of subscribership. We encourage all state commissions to implement disconnection rules to prohibit the disconnection of local exchange service for non-payment of long distance telephone services. We also encourage telephone companies to increasingly promote the Link Up program, especially among Native American and other minority population groups.

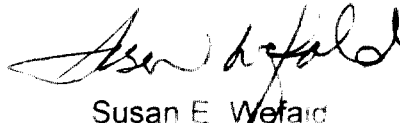
In conclusion, the North Dakota Public Service Commission supports efforts to increase telephone subscribership. State commissions, working cooperatively through NARUC and with the telephone industry, are adequately equipped to address these issues.

Thank you for the opportunity to comment on this proposal.

Sincerely,



Bruce Hagen
Commissioner



Susan E. Weirald
President



Leo M. Reinbold
Commissioner

CHAPTER 69-09-05
STANDARDS OF SERVICE - TELEPHONE

Section

69-09-05-01	Lowest Priced Service Alternatives
69-09-05-02	Discontinuance of Telecommunications Services
69-09-05-02.1	Determination of Delinquency
69-09-05-03	Deposits and Guarantees
69-09-05-04	Rules for Resale of Telecommunications Services
69-09-05-04.1	Equal Access Ballot Placement
69-09-05-05	Rules for the Provision of Operator Services
69-09-05-06	Rules for Pay Telephones [Repealed]
69-09-05-07	Customer Trouble Reports

69-09-05-01. Lowest priced service alternatives. Upon request of a residential customer or prospective customer for service, the utility shall ask if such customer wishes to be informed of the lowest priced service alternatives available from the utility, and upon an affirmative response shall inform such customer of the lowest priced service alternatives available from the utility at the customer's location, giving full consideration to grades of service, equipment options, and installation charges incident thereto.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11, 49-31-01.4

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunication services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.

2. A utility may discontinue nonessential services:
 - a. If the customer is delinquent in payment for nonessential services
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if, due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.
5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency. The notice must:
 - a. Be sent by first-class mail addressed to the billing name and address of the affected account.
 - b. Show the amount of the delinquency.
 - c. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
 - d. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6. a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
 8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;
 - b. Makes a deposit under section 69-09-05-03 (if required by the company); and
 - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued.

Interexchange carriers are not required to resume long-distance service if local service is not connected.

9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.

10. The commission may order the discontinuance of services where a reseller, operator services provider, or customer-owned pay telephone provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller, operator services provider, or customer-owned pay telephone operator to respond or correct the deficiency. A reseller, operator services provider, or customer-owned pay telephone provider disputing the alleged violation or discontinuance, may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

History: Effective April 1, 1985; amended effective January 1, 1993.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11, 49-21-01.4

69-09-05-02.1. Determination of delinquency. For the purpose of discontinuing or resuming telecommunications service:

1. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred installment agreement is less than the outstanding charges for essential services and federal access charges, the customer is delinquent in payment for essential services.
2. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred installment agreement is equal to or greater than the outstanding charges for essential services and federal access charges, the customer is not delinquent in payment for essential services.

History: Effective January 1, 1993.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11, 49-21-01.4

69-09-05-03. Deposits and guarantees. Each telephone utility subject to the public service commission's jurisdiction may require each applicant for service to make a deposit not to exceed two times the estimated amount of one month's average bill. The utility shall each year pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor or may be deducted from the depositor's indebtedness to the utility for telephone service. The payment or deduction for interest must be made during each calendar year, or whenever a deposit is refunded or service discontinued. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not